

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2006-72

Petition of Joseph and Linda Senecal
5 Paine Street

Petition of JOSEPH AND LINDA SENECA (collectively, the "Petitioners") requesting a Special Permit/Finding pursuant to the provisions of Section XVII and Section XXV of the Zoning Bylaw that a 39 square foot enlargement of an existing deck with less than required left side yard setback, in a 10,000 square foot Single Residence District, at 5 PAINE STREET, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On September 18, 2006, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Joseph Senecal, who said that the existing deck is 24 years old and is beginning to rot. The Petitioners are requesting a Special Permit to replace the deck and extend it two feet deeper into the rear yard, coming no closer to the side lot line than the existing left side of the house. Mr. Senecal said that the Petitioners did not realize that one corner of the deck would be nonconforming when they were issued a Building Permit for its construction in 1982. He said that the corner of the deck was clipped at the rear left side to allow for a passageway between the deck and a pine tree that was located there at the time of construction.

A plot plan, dated 8/5/82, stamped by Carmelo Frazetti, Registered Land Surveyor, shows a 12 foot left side yard setback to the existing dwelling, a 20.2 foot left side yard setback to the proposed deck and stairs, and a 20.5 foot right side yard setback to the existing dwelling.

A certified plot plan, dated 8/23/06, stamped by Daniel A. O'Driscoll, Professional Land Surveyor, shows an 11.3 foot left side yard setback to the existing dwelling, an 18 foot left side yard setback to the proposed deck, and a 19.5 foot right side yard setback to the existing dwelling.

The Board said that bearings are not shown on the plot plans.

The Board said that the Petitioners are requesting a Special Permit to extend the deck to a left side yard setback that is less nonconforming than the existing nonconforming left side yard setback of the house.

The Board asked about the right of way that is shown on the left side of the lot on the 8/23/06 Plot Plan. Mr. Senecal said that the 5 Paine Street lot, the lot on the corner of Paine and Forest Streets, and the adjacent lot on Forest Street had been subdivided from a single lot. He said that a dotted line is shown on the Town Plans for a driveway that has not been in use since 1941.

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Statement of Facts

The subject property is located at 5 Paine Street, with a minimum left side yard setback of 11.3 feet and a minimum right side yard setback of 19.5 feet, on a 10,000 square foot lot, in a 10,000 square foot Single Residence District.

The petitioner is requesting a Special Permit/Finding that replacement of an existing nonconforming deck with a 39 square foot enlargement with less than required left side yard setback shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

A Plot Plan dated 8/23/06, stamped by Daniel A. O'Driscoll, Professional Land Surveyor, Existing and Proposed Floor Plans and Elevation Drawings, dated 8/20/06, and photographs were submitted.

On September 26, 2006 the Planning Board reviewed the petition and had no objection to granting the request.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that replacement of an existing nonconforming deck with less than required left side yard setback shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure, as the construction shall neither intensify the existing nonconformance, nor shall it create a new nonconformity, as the left side yard setback shall remain the same.

It is the finding of this Authority that although a 39 square foot enlargement of an existing deck with less than required left side yard setback is increasing a nonconformity, such increase shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for replacement and enlargement of an existing deck, in accordance with the submitted plot plan and construction drawings.

The Inspector of Buildings is hereby authorized to issue a permit for construction upon receipt and approval of a building application and detailed construction plans.

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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Acting Chairman

Robert W. Levy

Robert C. Sechrest

cc: Planning Board
Inspector of Buildings
lrm